IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 23000 of 2007(K)

OPMV.340/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA

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PETITIONER:

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1. JOSEPH, S/O.VARGHESE,
   KANNATHU HOUSE, VAZHATHOPPU KARA,
   IDUKKI VILLAGE.

2. THRESSIAMMA, W/O. JOSEPH,
   -DO- -DO-

3. SHYBY, D/O. JOSEPH,
   -DO- -DO-

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

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1. N.S.REGIMON, S/O. SUKUMARAN,
   NANGELIL, PERUMBAVOOR.

(RESPONDENT NO.1 IS DELETED FROM THE PARTY ARRAY AS PER ORDER DT. 14.9.07 IN IA NO.12178/07.

2. A.K.NALINI,
   MANGALIL HOUSE, PERUMBAVOOR.

3. NEW INDIA ASSURANCE CO. LTD.,
   BRANCH, PERUMBAVOOR.

BY ADV. SRI.A.C.DEVY FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 23000/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE AWARD IN O.P.(MV) NO.340 OF 1996, MOTOR ACCIDENTS CLAIMS TRIBUNAL, THODUPUZHA DT. 10.4.00

EXT.P2. COPY OF THE JUDGMENT DT. 28.11.06 IN M.F.A. NO.821 OF 2001.

EXT.P3. COPY OF THE AFFIDAVIT PETITION AND THE ORDER DT. 7.5.07 IN O.P. (MV) NO. 340 OF 1996, MOTOR ACCIDENTS CLAIMS TRIBUNAL, THODUPUZHA

EXT.P4. -DO- IN RESPECT OF THE 2ND PETITIONER

EXT.P5. -DO- IN RESPECT OF THE 3RD PETITIONER

/TRUE COPY/

PA TO JUDGE.

ANTONY DOMINIC, J.

W.P.(C). NO. 23000 OF 2007

Dated this the 14th day of September, 2007

J U D G M E N T

The petitioners are the claimants in O.P.(MV) No.340 of 1996 in which Ext.P1 award dated 10.4.2000 was passed granting them compensation of Rs.1,41,250/- plus interest at 12%. In the award it was ordered that after releasing Rs.10,000/- the balance shall be deposited as Fixed Deposit for a period of 2 years.

2. Petitioners challenged the award before this Court in M.F.A. No.821/2001 and the appeal was disposed of awarding an additional compensation of Rs.2,97,920/- plus 7% interest. Accordingly, the additional compensation awarded was deposited in the name of the three petitioners, as ordered in the award of the Tribunal. Subsequently, petitioners filed Exts. P3, P4 and P5 applications for withdrawal of the amount and the Tribunal has passed orders releasing only Rs. 25,000/- each to them. It is challenging that order of the Tribunal, this writ petition has been filed.

3. The Tribunal has not stated any reason for not releasing the amounts awarded to the claimants. In this case for an accident

that occurred about 11 years back compensation was claimed and awarded in 2000. That was only ordered to be fixed for a period of two years and this period expired long ago. Now, more than seven years have been elapsed. Further in the judgment in M.F.A. No. 821/2001, this Court had given liberty to the claimants to apply for disbursement. None of these aspects have been taken into account by the Tribunal. At this distance of time, there is absolutely no justification in preventing petitioners from enjoying the fruits of the award.

In view of the above, I find no reason to sustain the order of the Tribunal allowing the petitioners to withdraw only Rs. 25,000/- each out of the awarded amount . Order dated 7.5.07 passed by the Tribunal in Exts. P3, P4 and P5 will stand quashed and the petitioners will be allowed to withdraw the amounts, as prayed for by them in Exts. P3, P4 and P5.

The writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

vps

ANTONY DOMINIC, JUDGE

OP NO.16383/98

JUDGMENT

5TH SEPTEMBER, 2007